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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SOCIAL POSITIONING INPUT SYSTEMS,
LLC,

Plaintiff,

vs.

GEOZILLA Inc.,

Defendant

Case No.: 4:21-cv-07073-HSG

**PLAINTIFFS *EX PARTE* APPLICATION
AND MOTION FOR SUBSTITUTE
SERVICE**

HEARING DATE: NOVEMBER 18, 2021
TIME: 2:00 PM
JUDGE: HONORABLE HAYWOOD S.
GILLIAM, JR.

CAL. CORP. CODE § 1702

**TO THIS HONORABLE COURT, TO ALL PARTIES AND THEIR
ATTORNEYS OF RECORD HEREIN, PLEASE TAKE NOTICE** that, on November 18,
2021 at 2:00 PM, or as soon thereafter as this matter may be heard before the Honorable
Haywood S. Gilliam, Jr., located at 1301 Clay Street, Oakland, CA 94612, the Plaintiff Social
Positioning Input Systems, LLC, will and do hereby submit this for Substitute Service.

1 This Motion is made and based upon this Notice of Motion, the Memorandum of Points
2 and Authorities below, the declarations of Non-Service, served and filed concurrently herewith,
3 the pleadings and papers on file herein, and such other and further evidence as may be presented
4 at the hearing on the Motion.
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7 Dated: November 12, 2021
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9 Respectfully submitted,
10

11 /s/ Brian C. Holloway
12 **BRIAN C. HOLLOWAY (SBN: 335408)**
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BACKGROUND

On September 13, 2021, Plaintiff Social Positioning Input Systems LLC, (“SPIS”) filed a Complaint for Patent Infringement against Defendant Geozilla (“GEO”). Since filing SPIS has made reasonably diligent attempts to execute Service of Process upon Defendant.

Service was attempted first on September 24, 2021, at the address on file with the California Secretary of State, in San Francisco, CA. (see Exhibit 1; Exhibit 2). The address where service was attempted was most recently verified by the defendant on March 1, 2021. (see Exhibit 3). The second attempt was on October 13, 2021, at a second location in Palo Alto, CA. At both addresses it was communicated that the Defendant had moved from the office. (see Exhibit 4).

The Service attempts were done in accordance with California Civil Procedure Code § 415. SPIS requests the courts permission for substituted service of process through California’s Secretary of State’s office as per California Corporation Code § 1702.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Legal Standard

If the registered designated agent cannot be served with reasonable diligence an order of the court is necessary for service to be executed upon the Secretary of State. California Corporations Code § 1702; Cal. Civ. Pro §415.20. In its application of the rule courts have applied a reasonable diligence standard to attempts to effectuate service. *Gcid-Employer Re. Fund v. Vincent A. Corbella*, 2021 U.S. Dist. LEEXIS 148018 (After Plaintiff’s exhausted their diligent efforts to serve Defendant Plaintiffs served the Secretary of State.); see also, *Espindola v. Nunez*, 199 Cal. App. 3d 1389.

1 Multiple attempts have been made to serve the defendants designated agent for service.
2 Not only was the designated agent not present but in fact no one was present in which service
3 could be executed. In addition, the corporations on filing in March of 2021, states no change in
4 the information on the Secretary of State website for the corporation, including the designated
5 agent for process. Therefore, Plaintiff requests the Court issue an order allowing for substitute
6 service on the California Secretary of State.
7

8 9 **II. Argument**

10 Service was attempted first on September 13, 2021, at the address on file with the
11 California Secretary of State, in San Francisco, CA. (see Exhibit 1). The address on file was
12 verified on March 1, 2021, in a “Statement of Information No Change” filed with the California
13 Secretary of State. (see Exhibit 3, Exhibit 4). Here, the Plaintiff has attempted to serve the
14 address on record with the state for service of process. There was no forwarding information, and
15 the property was abandoned with no response from calls. This is six months after the defendant
16 filed a statement stating there was no change in their information. The second attempt was on
17 October 13, 2021, at a second location in Palo Alto, CA. At both addresses it was communicated
18 that the Defendant had moved from the office. (see Exhibit 2).
19

20 With the Defendant’s location hard to assess and the information they have falsely
21 verified with the state for this process it is becoming exceedingly interminable to execute
22 service. As reasonable attempts have been made to execute service upon the defendant in excess
23 of statutory requirements, the Plaintiff requests the Court to grant this Motion for Substitute
24 Service.
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1 Dated: November 12, 2021

Respectfully submitted,

2 /s/ Brian C. Holloway

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